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THE WHITE HOUSE  
WASHINGTON

May 18, 1973

MINUTES OF MAY 2, 1973  
MEETING OF THE INTERAGENCY CLASSIFICATION  
REVIEW COMMITTEE

Participants:

Dr. James B. Rhoads - Acting Chairman  
Robert T. Andrews - Defense  
Robert G. Dixon - Justice  
Mark B. Feldman - State  
Lawrence R. Houston - CIA  
Charles L. Marshall - AEC  
James E. O'Neill - Archives

Attending:

[redacted] STATINTL  
Mark A. Spiegel - State  
Richard C. Tufaro - Domestic Council  
Leon Ulman - Justice

Proceedings:

The following items were discussed in the order in which they appeared on the agenda:

1. Dr. Rhoads noted the resignation of Ambassador Eisenhower and remarked that the Committee had made substantial progress during his tenure because of his integrity and perseverance. He also mentioned the resignation of David R. Young, Executive Director of the Committee. Mr. Young played an important role in the development of E.O. 11652 and its early implementation. Mr. Tufaro will act in Mr. Young's place for the time being.

Dr. Rhoads spoke of his own determination and commitment to continue the classification reform by ensuring that the provisions of the Order are carried out. He said that the Committee members should act not solely as representatives of their own particular agencies' interests but as classification watchdogs for the Federal Government and guardians of the public interest. He pointed out that he expected his tenure as Chairman would be brief and that he would assist in any way

he could to find a suitable permanent replacement for Ambassador Eisenhower.

Dr. Rhoads told the Committee that just prior to the meeting he met with Fred Malek, Deputy Director of the Office of Management and Budget. Malek advised that oversight support for the classification program would be shifted to OMB. Malek emphasized that the move does not signal any lessening of high-level interest in the classification program; it continues to have the President's strong support. It was felt, however, that the functioning of the program could be more efficiently handled within OMB.

Dr. Rhoads welcomed the Committee's new member, Robert G. Dixon, Assistant Attorney General, Office of Legal Counsel, who has taken the place formerly held by Ralph Erickson.

Dr. Rhoads stated that he had been invited by Senators Ervin and Muskie to testify on May 9th before the Subcommittee on Intergovernmental Relations of the Senate Committee on Government Operations during its hearings on Executive Privilege and Government Secrecy. His statement will be limited to topics which are related to the work of the ICRC. Dr. Rhoads said he plans to cover the situation prevalent before the promulgation of E. O. 11652 and the progress made over the past year. For the most part he will avoid commenting on the legislation under consideration by this Subcommittee. Since representatives from Defense, Justice and AEC will be testifying on the Hill in the near future, it was decided to circulate a draft of Dr. Rhoads' statement.

Mr. Houston reported on progress in responding to a request, which was noted in the Minutes of the March meeting, for information from the CIA's OSS files. The CIA was able to satisfy the requester by answering his specific questions without turning over documents which would have disclosed intelligence sources or methods.

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2. There were two corrections to the Minutes:



most classified documents submitted to the United States by foreign governments."

Mr. Marshall also noted a clarification of a statement of his recorded on page 3, in paragraph 3 of the Minutes. AEC attempts to ascertain the desires of the foreign government with regard to the protection of foreign classified information. In many cases, the government may indicate that the document need not be protected beyond the period of the General Declassification Schedule.

3. Dr. Rhoads indicated that his opposition to the separation of exemption authority from Top Secret authority was already known to most of the members. Keeping the amount of material exempted from the GDS to a minimum is crucial to the success of the new classification system. This would appear to be best achieved by limiting exemption authority to those Government officials with Top Secret classifying authority. He stated that he would rather see a slight increase in authorized Top Secret classifiers than to see the two divorced.

Mr. Marshall said it was his belief that exemption authority should be separated from authority to classify Top Secret. The proper use of exemption authority is certainly as crucial to the effectiveness of the new system as is the use of TS authority and, therefore, classifiers should be held personally responsible for exempting documents from the GDS. There are no individuals at the present time in many of AEC's field offices with authority to classify Top Secret. AEC granted TS authority only to those officials who might have a need to use it, regardless of title or position. The result is that the AEC must rely upon classification guides to indicate the classification category and declassification schedule of broad categories of information. There is a greater tendency to exempt documents when classification guides are used because the individual applying the guide to a particular document does not indicate

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be no separation. It is true that classification guides encourage blanket exemptions in some cases, but in the future they should become increasingly specific so that personal accountability will be involved in the issuance and application of the guides. DOD favors keeping the two combined because this contributes to a narrower concentration of management control which is necessary in view of the difficulties caused by the dispersal of DOD personnel around the world.

Mr. Houston stated that CIA is trying to reduce the amount of exempt material. Although for this purpose it is somewhat better to separate exemption authority from Top Secret authority, the Agency can live with the present situation.

Mr. Ulman stated that when the number of authorized classifiers in Justice was reviewed by Mr. Erickson, it was found that the combination of exemption authority with Top Secret authority was one reason the figure in the TS category was high. It would expedite business in the FBI field offices if the two were separated because in spite of the large volume of sensitive material they handle, only one person in each field office has TS authority. It was pointed out, however, that the FBI does not generate that much material with national security implications.

Mr. Feldman reported that in the State Department many of the smaller posts have no officials who are authorized to classify Top Secret. In order to exempt documents, these posts have to send them to a larger post (sometimes out of country). This is a very inefficient system. In State's view, however, it would not be good to give exemption authority to all Secret classifiers. The best course of action may be to increase the number of TS classifiers.

Dr. O'Neill stated that Archives really stands outside this matter since it does not generate classified documents. However, it is concerned that documents be available to researchers after they are deposited in the Archives. Accordingly, it would like to see as few documents exempted as possible.

Mr. Marshall maintained that this goal is best served by making personal accountability a feature of exemption authority. If departments are not permitted to divorce Top Secret authority and exemption authority, AUC will find it necessary to give more of its personnel TS authority. This could easily triple the number of TS classifiers in AEC.

Dr. O'Neill pointed out that some agencies can probably reduce the number of TS classifiers if exemption authority is separated from TS authority. Mr. Houston confirmed this with respect to CIA.

Dr. Rhoads again stated that our objective is to devise a system or evolve our present system in a way that is conducive to the minimal exercise of exemption authority. We should probably defer a final decision on what approach to take until we can examine the Quarterly Summary Reports (which will be submitted in July) and determine from them how much material is currently being exempted. Mr. Marshall said that this may not be valid since there is no yardstick for comparison. Dr. Rhoads replied that the system which prevailed under E.O. 10501 resulted in almost no automatic declassification. The Quarterly Summary Report will give some indication of the effect of E.O. 11652 in the various departments.

Dr. Rhoads asked what the authority was under E.O. 11652 for the use of classification guides. He was advised that it was based upon a distinction between the classification of information and the marking of a document pursuant to that classification. An individual with Top Secret authority classifies the information; the individual applying the classification guide to a particular document performs a ministerial act when he marks on it the classification category and declassification schedule. If classification guides are drawn very precisely, it is clear that the actual responsibility for the classification action rests at a high level within the department or agency. It was noted, however, that as precisely as the classification guides may be drawn, they are still subject to widely differing interpretations by the persons who apply them.

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It was suggested that blanket exemption of classified information through the use of classification guides could perhaps be curbed by tightening the definition of the exemption categories. It was generally conceded that this would be impossible with respect to information classified because of its foreign relations aspects. Another member of the Committee suggested that in order to prevent abuse the name of the individual responsible for the classification action could be required on the document when a classification guide is used as the authority for classification.

Dr. Rhoads suggested that a Working Group be established to study the inter-relationship between the use of classification guides and exemption authority and to make recommendations on the most effective way of keeping to a minimum the amount of material exempted from the General Declassification Schedule. The Working Group will be chaired by the State Department and each member of the Committee will be represented.

4. A brochure entitled "Know Your Rights to Mandatory Review of Classified Documents" was circulated to the members for their comments. The brochure is aimed at the general public and will be broadly distributed if approved. The members were asked to submit their comments within 10 working days.

Mr. Feldman asked if the brochure addressed itself to the problem of re-classification, where a request is received for a document which has been automatically declassified and which, when reviewed, seems to warrant re-classification. Several members stated that this should be done only under the most unusual circumstances and only if the document was not previously made available to the public. The brochure does not deal with this problem.

5. Mr. Tufaro indicated that he had received inquiries from several individuals working with Defense contractors in the industrial security program regarding the status of material classified pursuant to Executive Order 10501 and placed in Group 3 for declassification. Under E.O. 10501 material in Group 3 was automatically downgraded at 12 year intervals to Confidential and then remained at that level. In Section 5(D) of E.O. 11652, Group 3 material is excluded from the General Declassification Schedule. Several departments have interpreted this section to mean that Group 3 material is no longer eligible for automatic downgrading to Confidential in accordance with the 12 year schedule. Mr. Tufaro stated that it was his belief E.O. 11652 was not intended to be retrogressive. What was intended was that Group 3 material be excluded from the time schedules and eventual automatic declassification provided for in the GDS. It would continue

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bound by a 12 year schedule if these materials can be downgraded in a shorter time period. Dr. Rhoads asked Mr. Dixon to determine whether the letter of interpretation could be used to advise departments regarding downgrading status of Group 3 material.

6. New Business

Dr. Rhoads asked Mr. Houston if he could report on the status of the Associated Press request for declassification of documents related to the overthrow of Guatemalan President Arbenz in 1954. Mr. Houston indicated that approximately half of the documents had been reviewed and could be declassified. Some of the documents require additional review by other agencies. The review is still underway but should be completed shortly.

Dr. Rhoads reminded the members that the tone and spirit of all letters acknowledging receipt of and decisions on declassification requests should be in harmony with the intent of the Executive Order. He suggested that the Committee members receive information copies of these letters to satisfy themselves on this point.

Copies of the statement which Harding S. Bancroft made before the Subcommittee on Intergovernmental Relations were circulated to the members. Dr. Rhoads received a copy of the statement in connection with his invitation to appear before the Subcommittee. Mr. Houston reported that Bancroft was quite aware that the statement took a one-sided view of the problem of dealing with declassification requests.

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Dr. Rhoads indicated that the ICRC Appeals Procedures should be finalized and presented for Committee approval at the next meeting. The Working Group should see that this matter is resolved before that time.



Dr. Rhoads adjourned the meeting. The next meeting will be held on June 13, 1973.